

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTEROCEAN COAL SALES, LDC,	X
Plaintiff,	
-against-	11 Civ. 0940 (NRB)
EVONIK TRADING GmbH, an alien corporation, EVONIK DEGUSSA CORPORATION, an Alabama corporation, EVONIK INDUSTRIES, AG, an alien corporation, and EVONIK STEAG GmbH, an alien corporation,	
Defendants.	

X

STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the parties to the above-captioned matter hereby stipulate and agree as follows:

1. Defendants Evonik Degussa Corporation and Evonik Industries AG, and all claims against them, are hereby voluntarily dismissed with prejudice from this action;
2. The Counterclaim and Fourth Affirmative Defense of Defendant Evonik Trading GmbH (“Evonik Trading”) are hereby voluntarily dismissed with prejudice;
3. Evonik Trading’s Second Affirmative Defense is likewise dismissed only to the extent it is based upon Plaintiff Interocean Coal Sales, LDC’s failure to pay demurrage owed to Evonik Trading for two coal cargoes delivered in 2010; and
4. Each party shall bear its own costs and attorneys’ fees with respect to the claims and defenses dismissed hereunder and shall not seek to recover such costs or attorneys’ fees from any opposing party.

July 26

Dated: July 26, 2011
 New York, New York

DUANE MORRIS, LLP

By: 

John DellaPortas
 1540 Broadway *Evangelos Michailidis*
 New York, New York 10036 (EM 3383)
 Phone: (212) 692-1012
 Email: Dellajo@duanemorris.com

-and-

BAILEY & GLASSER, LLP

By: 

Scott C. Heimholz
 Jeffrey R. Baron
 Old North Old State Capitol Plaza, Suite 560
 Springfield, Illinois 62701
 Phone: (217) 528-1177
 E-mail: shelrnholz@baileyllasser.com
 E-mail: jbaron@baileyllasser.com

*Attorneys for Plaintiff Interocean Coal Sales,
 LDC*

ALSTON & BIRD LLP

By: 

Mark Vasco
 101 S. Tryon St., Suite 400
 Charlotte, North Carolina 28280
 Phone: (704) 444-1000
 Email: mark.vasco@alston.com

-and-

Alexander S. Lorenzo

90 Park Avenue
 New York, New York 10016
 Phone: (212) 210-9400
 Email: alexander.lorenzo@alston.com

*Attorneys for Defendants Evonik Trading
 GmbH and Evonik Steag GmbH*

CONNELL FOLEY LLP

By: 

Patrick J. Hughes
 85 Livingston Avenue
 Roseland, New Jersey 07068
 Phone: (973) 535-0500
 Email: phughes@connellfoley.com

-and-

Hector D. Ruiz

888 Seventh Avenue
 New York, New York 10106
 Phone: (212) 262-2390
 Email: hrulz@connellfoley.com

*Attorneys for Defendants Evonik Industries
 AG and Evonik Degussa Corporation*